



May 25, 2006

Possible Amendments to the Homeland Security Appropriations Act, 2007, H.R. 5441

Part 1

The following contains information on the nine amendments pre-printed in the Congressional Record, and others not pre-printed that may be offered.

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Amendments Pre-printed in the *Congressional Record*

1. Brown (D-OH). Reduces, then increases, by \$500,000 funds for management and operations at the Department of homeland Security. This is commonly called an earmark amendment, which does not change the spending levels, but marks the text to show congressional intent. According to the sponsor, the \$500,000 earmark is intended to be used for a DHS report to Congress on security issues raised by the free trade agreements with Peru and Columbia. The funds are also to be used for coordination with the Department of Justice and State Department on reviewing concerns. The State Department lists two foreign terrorist organizations in Peru and three in Columbia.

2. Doolittle (R-CA). Provides that none of the funds may be used for expedited removal of illegal aliens unless El Salvadorans are subject to the same expedited removal provisions as other illegal aliens. According to the sponsor's office, the amendment is being offered to allow Maria Salvatrucha-13, commonly known as MS-13, gang members to be deported. A long-standing court injunction prevents El Salvadorans from being deported due to the civil war, but the El Salvadoran civil war ended in 1992. According to the sponsor's office, the amendment will likely be subject to a point of order and likely will be withdrawn.

3. Campbell (R-CA). Provides that none of the funds may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)). According to the sponsor, "Section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility of 1996 makes it illegal for state and

local governments to prevent their police from sending information to, or receiving information from federal enforcement authorities about the immigration status of foreign nationals that they encounter in the course of their police duties. ... [This] amendment to the Department of Homeland Security Appropriations bill that would prevent state and local governments who refuse to share information with federal immigration authorities by adopting 'sanctuary policies' from obtaining federal funds under this act."

4. Stearns (R-FL). Increases by \$3 million, funding for the Immigration and Customs Enforcement, Salaries and Expenses account, and decreases by \$3 million, funding for the Preparedness and Recovery. *According to the sponsor, it is like this amendment will not be offered.*

5. Poe (R-TX). Increases by \$41 million (from \$5.4 million to \$46.4 million) the available funds for Immigration and Customs Enforcement to facilitate agreements with state and local law enforcement to enforce federal immigration laws (under section 287(g) of the Immigration and Nationality Act; 8 U.S.C. 1357(g)); reduces by \$41 million the available funds for DHS technology investments and specifically for information technology equipment (from \$284,244,000 to \$244,244,000; which would include conversion to narrowband communications and operation of the land mobile radio legacy systems).

6. Poe (R-TX). Prohibits funds from being used to implement a plan in current law (section 7209 of the Intelligence and Terrorism Prevention Act; 8 U.S.C. 1185 note) that permits foreigners to travel in the U.S. using documents other than a passport. Thus, this amendment would require a passport for all travel into and out of the U.S.

Under provisions in the Intelligence and Terrorism Prevention Act of 2004 (P.L. 108-458), beginning on January 1, 2008, the Department of Homeland Security is directed to implement a plan that may allow documents *other than a passport* to be used for travel in and out of the U.S., so long as the DHS Secretary determines that the other document or combination of documents are "sufficient to denote citizenship and identity."

7. Tancredo (R-CO). Provides that none of the funds may be used to administer any extension of designation made under section 244(b) of the Immigration and Nationality Act before the date of the enactment of this Act with respect to Guatemala, Honduras, or Nicaragua. According to the sponsor, last year, "Guatemala requested Temporary Protective Status (TPS) for its nationals present in the U.S. ... We feel strongly that Guatemala can handle the return of its deported nationals. We are also concerned that the TPS authority is being used inappropriately. ... The authority to extend this status was extended to the administration so that the U.S. government could provide temporary refuge to certain individuals in situations where wars or massive disasters have *temporarily* made it unsafe for them to return. The authority was not created to allow the administration to provide *de facto* amnesty in 18 month installments."

8. Holt (D-NJ). Reduces by \$50 million, funds for the Office of the Under Secretary for Management at DHS (from \$159 million to \$109 million), and increases by \$50 million (from \$150 million to \$200 million), funding for intercity rail passenger transportation,

freight rail, and transit security grants. According to the sponsor, the amendment will “ensure that our local transit providers have the resources they need to protect the millions of Americans who rely on rail service. Between the years of 1998 to 2003, there were a total of 181 terrorist attacks worldwide on trains and rail related targets, resulting in 431 fatalities. We must act before a terrorist attack targets our nation’s rail infrastructure.”

9. Deal (R-GA). Provides that none of the funds may be used to grant birthright citizenship to the children of those individuals who are not subject to the jurisdiction of the United States, including the children of illegal aliens. The sponsor’s office stressed that the phrase in his amendment “subject to the jurisdiction of the United States,” is the same phrase in the Fourteenth Amendment of the Constitution. The office also cited Center for Immigration Studies statistics that 10% of births in the U.S. are births to illegal immigrants. This amendment is likely subject to a point of order.

Amendments Not Pre-printed in the Congressional Record

Pickering (R-MS). Prohibits FY07 funds from being used for new, continuing, or existing disaster relief contracts, except in accordance with Section 307 of the Stafford Act (42 U.S.C. 5150), which instructs federal agencies to give preference (where practicable and feasible) to local firms in disaster areas when awarding such contracts. The sponsor states that this amendment “simply prohibits FEMA from using funds for contracts” where Section 307 is not considered and that it “does not expand or otherwise modify any authority, duties, obligations of FEMA or the Department of Homeland Security in its implementation of the Stafford Act.” The bill seeks to enforce the law, as recently amended by H.R. 4979. (To see the RSC write up on that bill see http://www.house.gov/pence/rsc/doc/LB_032806_Suspensions.doc). H.R. 4979 modified Section 307, to give discretionary authority to federal agencies to award contracts based on geographic areas in the implementation of the local preference authority. The sponsor had reported (when passing H.R. 4979) that certain Katrina-related contracts in Mississippi were under dispute and in pending GAO proceedings as a result of bid protests brought by out-of-state contractors because FEMA had awarded such contracts to local Mississippi contractors. This amendment affirms funds may not be spent in contravention of this new law.

Jindal (R-LA). Increases, then decreases, by \$1 million, funds available for FEMA for readiness, mitigation, response, and recovery activities. According to the sponsor’s office, this earmarking of funds will allow Rep. Jindal to speak on floor in order to direct FEMA to “implement a fully tested process that can provide real-time access to data required to validate identities and addresses for those seeking disaster assistance.” To view an RSC document on FEMA, Katrina-related waste, please click here: <http://www.house.gov/pence/rsc/doc/KatrinaWaste06.doc>.

Jindal (R-LA). Increases, then decreases, by \$9 million, funds available for the Office of the Under Secretary for Preparedness, salaries and expenses account. According to the sponsor’s office, this earmarking of funds will allow Mr. Jindal to speak on floor in

order “to further direct the Department of Homeland Security to develop a system that verifies and validates, in real-time, what qualified assets (people, equipment, supplies, teams, including volunteers) are available in order to meet emergent or anticipated events, even when the information supplied is coming from disparate or incompatible databases.”

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